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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,362	08/26/2003	Glenn Jacobsen	117072.00002	4751
21324	7590	04/19/2005	EXAMINER	
HAHN LOESER & PARKS, LLP One GOJO Plaza Suite 300 AKRON, OH 44311-1076			WEEKS, GLORIA R	
		ART UNIT	PAPER NUMBER	
		3721		

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/649,362	JACOBSEN ET AL.	
	Examiner Gloria R Weeks	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 April 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 August 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/26/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7 and 11-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Huang et al. (USPN 6,438,928).

In reference to claims 1-7, 11-22, 26-28 and 32, Huang et al. discloses a material handling system having workstations (42, 48) disposed along a processing line (94), including: automatic batch delivery means (48) which deliver batches of a product (10A, 10B, 10C) to a work-station (94) on an

"as required" or 'on demand" basis, wherein the batch delivery means includes means for sensing (112) or identifying when a batch of product is required at the work-station (94) and a buffer (96); packing container delivery means (42) which deliver individual packing containers (44A, 44B, 44C) to the work-station (94) on an "as required" or "on demand", wherein the packing container delivery means includes means for sensing (column 4 lines 25-31) or identifying when a packing container is required at the work station and a guide means (46); the batch delivery means (48) includes a shuttle device (90) and a transferring mechanism (column 3 lines 60-column 4 lines 2) which transfers the batch of a product (10A, 10B, 10C) from the shuttle device (90) to an access position; dispatch means (106) having an actuated removal mechanism (98); and a controller (50) designed to ergonomically accommodate a human operator at a filling workstation of the handling system. The system of Huang et al. is capable of accommodating an operator at additional workstation of the system. Thus, Applicant's recitation of the intended use of the claimed invention by an operator must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

In reference to claims 23-25, 29-31 and 33, Huang et al. discloses a material handling method, including the steps of: automatically delivering (48) batches of product (10A, 10B, 10C) to a work-station (94) on an "as required" or 'on demand" basis, automatically delivering (42) individual packing containers (44A, 44B, 44C) to the work-station (94) on an "as required" or "on demand"; automatically dispatching (106) product-filled packing containers (10D, 10E, 10F) from the workstation (94). Although the system of Huang et al. is designed to ergonomically accommodate a human operator at a filling workstation (50) of the handling system, Huang et al. only discloses having an operator for loading the batched of product (10A, 10B, 10C) to be automatically fed to the filling workstation.

Applicant's recitation of the intended use of the claimed invention by an operator must result in a manipulative difference as compared to the prior art.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (USPN 6,438,928) in view of Prakken (USPN 4,398,383).

Regarding claims 8-10, Huang et al. discloses a material handling system, having a packing container delivery means (42) including guide means (58, 56) for automatically delivering individual packing containers (44A, 44B, 44C) to the work-station (94) on an "as required" or "on demand", but does not disclose the guide means being in the form of a chute. Prakken teaches a material handling system having a packing container delivery means (1) including a chute (2, 4) that extends from the packing container delivery means (1) to a filling position, wherein the chute is provided with a packing buffer (5). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system of Huang et al. to include the chute and buffer of Prakken for the purpose of guiding accumulated packing containers into a filling workstation.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks
Examiner
Art Unit 3721

GRW
grw
April 14, 2005

Louis K. Huynh
LOUIS K. HUYNH
PRIMARY EXAMINER